

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

Plaintiff,

-against-

MEMORANDUM OF
DECISION AND ORDER
07CV5006 (ADS)

RICHARD CURASI a/k/a RICHARD J. CURASI,
a/k/a RICHAR J. CURASI

Defendant.

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APPEARANCES:

MICHAEL T. SUCHER, ESQ.

Attorney for the Plaintiff, United States of America
26 Court Street, Suite 2412
Brooklyn, New York 11242

RICHARD CURASI

Pro Se Defendant
2309 Willow Street
Wantagh, New York 11793

SPATT, District Judge:

This is an action brought by the United States of America (“the government”) to collect an unpaid debt, allegedly owed by the defendant, Richard J. Curasi. The complaint and Certificate of Indebtedness submitted by the government allege that the defendant executed a promissory note (the “Note”) on or about October 24, 1978 to obtain an education loan of \$2,000.00 from Marine Midland Bank at 7.00 percent simple fixed interest per annum. The government explains that the loan was assigned to the New York Higher Education Services Corporation (“HESC”) by Marine Midland Bank.

Curasi defaulted on the obligation as of November 2, 1980 and HESC was reimbursed by the United States Department of Education as a reinsurer of the loan. After the Department of Education paid the amount owed, the holder of the note assigned its right and title to the note to the Department of Education on July 11, 1994. Further, despite the government’s demands for the balance owing on the loan, Curasi has failed to make payments thereon.

On December 10, 2008, the Court granted the government’s motion for summary judgment and ordered it to submit an explanatory calculation of the total amount owed, including, but not limited to the original debt incurred, any and all credits applied, the principal remaining, and all of the interest that has accrued on the debt, including the amount and rate of interest accumulated during the time of Curasi’s military service from 1982 to 1990. In addition, the Court directed the

government to submit a specific request for its reasonable attorney's fees.

Finally, the Court stated that Curasi could submit any objection to the government's calculations or the request for counsel fees within twenty days after receiving such calculation.

On January 9, 2008, the government submitted its response, along with a declaration of one Albert Francisco, a Loan Analyst with the Litigation Branch of the Department of Education. Francisco's declaration establishes that the total outstanding balance of Curasi's debt is as follows: \$1,671.18 in principal plus \$1,048.54 in interest. In addition, Curasi is entitled to a 1% rebate interest from 1982-1990, his period of military service, amounting to \$150.39. Accordingly, the total sum due as of January 7, 2009 is \$2,569.33.

In addition, the plaintiff requests attorneys fees in the amount of \$642.25, or 20% of the underlying obligation. 34 C.F.R. § 682.410(b)(2) provides that courts may award "reasonable," attorneys' fees in student loan collection cases. In previous cases, courts in this district have applied an hourly rate of \$200 to \$250 for Mr. Sucher's work. *See United States v. Eyamba*, No. 04CV1953 (NGG)(CLP), Report and Recommendation at 16 (E.D.N.Y. April 18, 2006) (recommending reduction of Mr. Sucher's hourly rate to \$250 per hour); *United States v. Smith*, No. 04CV5370 (DRH)(ARL), Report and Recommendation, at 6 (E.D.N.Y. Aug. 1, 2005) (recommending reduction of Mr. Sucher's hourly rate to \$200 per hour); *United States v. Chester*, No. 04CV5263(DRH)(WDW), Report

and Recommendation, at 5 (E.D.N.Y. July 14, 2005) (recommending reduction of Mr. Sucher's hourly rate to \$250); *United States v. Mueller*, No. 04CV3063 (JS)(ETB), Report and Recommendation, at 6 (E.D.N.Y. Dec. 22, 2004) (recommending reduction of Mr. Sucher's hourly rate to \$250), adopted, Order (E.D.N.Y. Feb. 11, 2005). Accordingly, in this action, the Court finds that the requested \$642.25 in this case to be reasonable and appropriate.

Curasi has not objected to the government's submission and the Court finds that the government has submitted sufficient evidence in support its calculation. Accordingly, it is hereby

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the United States of America against Richard Curasi in the amount of \$1,671.18 in principal; plus \$898.15 in interest, for a total of \$2,569.33; plus an additional \$0.32 per day in interest from January 7, 2009 to the date of the judgment; plus \$642.25 in attorney's fees; and it is further

ORDERED, that the Clerk of the Court is directed to serve a copy of this order as well as the Judgment on Curasi at the above listed address by certified mail, return receipt requested.

ORDERED, that the Clerk of the Court is directed to close the case.

SO ORDERED.

Dated: Central Islip, New York
September 17, 2009

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge